

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 948

Introduced by Assembly Member Patterson

February 26, 2015

An act to amend Section ~~61105~~ 61040 of, and to add Section 61040.3 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

AB 948, as amended, Patterson. Local government: community service districts.

The Community Services District Law authorizes the establishment of community services districts to provide various services to the geographic area within each district, and further authorizes specified community services districts to enforce covenants, conditions, and restrictions within that district, as provided. *Existing law requires the board of directors of the district to consist of 5 people, and requires, among other things, that each member of the board of directors be a voter of the district, as specified.*

This bill would authorize a person to serve on the Board of Directors of the Sierra Cedars Community Services District if he or she holds title to land within the district.

This bill would make legislative findings and declarations as to the necessity of a special statute for Sierra Cedars Community Services District.

~~This bill would make a nonsubstantive change to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 61040 of the Government Code, as*
2 *amended by Section 1 of Chapter 505 of the Statutes of 2014, is*
3 *amended to read:*

4 61040. (a) Except as provided in Section 61040.1, a legislative
5 body of five members known as the board of directors shall govern
6 each district. The board of directors shall establish policies for the
7 operation of the district. The board of directors shall provide for
8 the implementation of those policies which is the responsibility of
9 the district's general manager.

10 (b) ~~No~~ Except as provided in Section 61040.3, no person shall
11 be a candidate for the board of directors unless he or she is a voter
12 of the district or the proposed district. No person shall be a
13 candidate for the board of directors that is elected by divisions or
14 from divisions unless he or she is a voter of that division or
15 proposed division.

16 (c) All members of the board of directors shall exercise their
17 independent judgment on behalf of the interests of the entire
18 district, including the residents, property owners, and the public
19 as a whole in furthering the purposes and intent of this division.
20 Where the members of the board of directors have been elected
21 by divisions or from divisions, they shall represent the interests of
22 the entire district and not solely the interests of the residents and
23 property owners in their divisions.

24 (d) Service on a municipal advisory council established pursuant
25 to Section 31010 or service on an area planning commission
26 established pursuant to Section 65101 shall not be considered an
27 incompatible office with service as a member of a board of
28 directors.

29 (e) A member of the board of directors shall not be the general
30 manager, the district treasurer, or any other compensated employee
31 of the district, except for volunteer firefighters as provided by
32 Section 53227.

33 (f) This section shall be repealed on January 1, 2035.

34 *SEC. 2. Section 61040 of the Government Code, as added by*
35 *Section 2 of Chapter 505 of the Statutes of 2014, is amended to*
36 *read:*

37 61040. (a) A legislative body of five members known as the
38 board of directors shall govern each district. The board of directors

1 shall establish policies for the operation of the district. The board
2 of directors shall provide for the implementation of those policies
3 which is the responsibility of the district's general manager.

4 (b) ~~No~~ *Except as provided in Section 61040.3, no* person shall
5 be a candidate for the board of directors unless he or she is a voter
6 of the district or the proposed district. No person shall be a
7 candidate for the board of directors that is elected by divisions or
8 from divisions unless he or she is a voter of that division or
9 proposed division.

10 (c) All members of the board of directors shall exercise their
11 independent judgment on behalf of the interests of the entire
12 district, including the residents, property owners, and the public
13 as a whole in furthering the purposes and intent of this division.
14 Where the members of the board of directors have been elected
15 by divisions or from divisions, they shall represent the interests of
16 the entire district and not solely the interests of the residents and
17 property owners in their divisions.

18 (d) Service on a municipal advisory council established pursuant
19 to Section 31010 or service on an area planning commission
20 established pursuant to Section 65101 shall not be considered an
21 incompatible office with service as a member of a board of
22 directors.

23 (e) A member of the board of directors shall not be the general
24 manager, the district treasurer, or any other compensated employee
25 of the district, except for volunteer firefighters as provided by
26 Section 53227.

27 (f) This section shall become operative on January 1, 2035.

28 *SEC. 3. Section 61040.3 is added to the Government Code, to*
29 *read:*

30 *61040.3. Notwithstanding subdivision (b) of Section 61040, a*
31 *person may be a candidate for the board of directors of the Sierra*
32 *Cedars Community Services District if he or she holds title to land*
33 *within the district.*

34 *SEC. 4. The Legislature finds and declares that a special law*
35 *is necessary and that a general law cannot be made applicable*
36 *within the meaning of Section 16 of Article IV of the California*
37 *Constitution because of the unique circumstances relating to the*
38 *types of residences within the Sierra Community Services District.*

39 ~~SECTION 1. Section 61105 of the Government Code is~~
40 ~~amended to read:~~

1 ~~61105. (a) The Legislature finds and declares that the unique~~
2 ~~circumstances that exist in certain communities justify the~~
3 ~~enactment of special statutes for specific districts. In enacting this~~
4 ~~section, the Legislature intends to provide specific districts with~~
5 ~~special statutory powers to provide special services and facilities~~
6 ~~that are not available to other districts.~~

7 ~~(b) (1) The Los Osos Community Services District may borrow~~
8 ~~money from public or private lenders and lend those funds to~~
9 ~~property owners within the district to pay for the costs of~~
10 ~~decommissioning septic systems and constructing lateral~~
11 ~~connections on private property to facilitate the connection of those~~
12 ~~properties to the district's wastewater treatment system. The district~~
13 ~~shall lend money for this purpose at rates not to exceed its cost of~~
14 ~~borrowing and the district's cost of making the loans. The district~~
15 ~~may require that the borrower pay the district's reasonable~~
16 ~~attorney's fees and administrative costs in the event that the district~~
17 ~~is required to take legal action to enforce the provisions of the~~
18 ~~contract or note securing the loan. The district may elect to have~~
19 ~~the debt payments or any delinquency collected on the tax roll~~
20 ~~pursuant to Section 61116. To secure the loan as a lien on real~~
21 ~~property, the district shall follow the procedures for the creation~~
22 ~~of special tax liens in Section 53328.3 of this code and Section~~
23 ~~3114.5 of the Streets and Highways Code.~~

24 ~~(2) (A) (i) Except as otherwise provided in this paragraph, on~~
25 ~~and after January 1, 2007, the Los Osos Community Services~~
26 ~~District shall not undertake any efforts to design, construct, and~~
27 ~~operate a community wastewater collection and treatment system~~
28 ~~within, or for the benefit of, the district. The district shall resume~~
29 ~~those powers on the date specified in any resolution adopted~~
30 ~~pursuant to subdivision (l) of Section 25825.5.~~

31 ~~(ii) Upon resuming the powers pursuant to subdivision (i), the~~
32 ~~Los Osos Community Services District may continue the program~~
33 ~~to offset assessments or charges for very low or low-income~~
34 ~~households with funding sources, including, but not limited to,~~
35 ~~grants, adopted pursuant to subdivision (g) of Section 25825.5. If~~
36 ~~the county has not implemented that program, the Los Osos~~
37 ~~Community Services District may adopt a program that complies~~
38 ~~with subdivision (g) of Section 25825.5 to offset assessments or~~
39 ~~charges for very low or low-income households. The Los Osos~~
40 ~~Community Services District shall not include in an assessment~~

1 or charge an amount to cover the costs to the county in carrying
2 out the offset program.

3 ~~(B) Nothing in this paragraph shall affect the district's power~~
4 ~~to do any of the following:~~

5 ~~(i) Operate wastewater collection and treatment facilities within~~
6 ~~the district that the district was operating on January 1, 2006.~~

7 ~~(ii) Provide facilities and services in the territory that is within~~
8 ~~the district, but outside the prohibition zone.~~

9 ~~(iii) Provide facilities and services, other than wastewater~~
10 ~~collection and treatment, within the prohibition zone.~~

11 ~~(C) Promptly upon the adoption of a resolution by the Board of~~
12 ~~Supervisors of the County of San Luis Obispo requesting this~~
13 ~~action pursuant to subdivision (i) of Section 25825.5, the district~~
14 ~~shall convey to the County of San Luis Obispo all retained~~
15 ~~rights-of-way, licenses, other interests in real property, funds, and~~
16 ~~other personal property previously acquired by the district in~~
17 ~~connection with construction projects for which the district awarded~~
18 ~~contracts in 2005.~~

19 ~~(e) The Heritage Ranch Community Services District may~~
20 ~~acquire, construct, improve, maintain, and operate petroleum~~
21 ~~storage tanks and related facilities for its own use, and sell those~~
22 ~~petroleum products to the district's property owners, residents,~~
23 ~~and visitors. The authority granted by this subdivision shall expire~~
24 ~~when a private person or entity is ready, willing, and able to~~
25 ~~acquire, construct, improve, maintain, and operate petroleum~~
26 ~~storage tanks and related facilities, and sell those petroleum~~
27 ~~products to the district and its property owners, residents, and~~
28 ~~visitors. At that time, the district shall either (1) diligently transfer~~
29 ~~its title, ownership, maintenance, control, and operation of those~~
30 ~~petroleum tanks and related facilities at a fair market value to that~~
31 ~~private person or entity, or (2) lease the operation of those~~
32 ~~petroleum tanks and related facilities at a fair market value to that~~
33 ~~private person or entity.~~

34 ~~(d) The Wallace Community Services District may acquire,~~
35 ~~own, maintain, control, or operate the underground gas distribution~~
36 ~~pipeline system located and to be located within Wallace Lake~~
37 ~~Estates for the purpose of allowing a privately owned provider of~~
38 ~~liquefied petroleum gas to use the underground gas distribution~~
39 ~~system pursuant to a mutual agreement between the private~~
40 ~~provider and the district or the district's predecessor in interest.~~

~~The district shall require and receive payment from the private provider for the use of that system. The authority granted by this subdivision shall expire when the Pacific Gas and Electric Company is ready, willing, and able to provide natural gas service to the residents of Wallace Lake Estates. At that time, the district shall diligently transfer its title, ownership, maintenance, control, and operation of the system to the Pacific Gas and Electric Company.~~

~~(e) The Cameron Park Community Services District, the El Dorado Hills Community Services District, the Golden Hills Community Services District, the Mountain House Community Services District, the Rancho Murieta Community Services District, the Salton Community Services District, the Stallion Springs Community Services District, and the Tenaja Meadows Community Services District, which enforced covenants, conditions, and restrictions prior to January 1, 2006, pursuant to former Section 61601.7 and former Section 61601.10, may continue to exercise the powers provided by former Section 61601.7 and former Section 61601.10.~~

~~(f) (1) The Bel Marin Keys Community Services District may enforce all or part of the covenants, conditions, and restrictions for a tract, and assume the duties of the architectural control committee, to the extent that a tract's covenants, conditions, and restrictions authorize an architectural control committee. Before the district can enforce covenants, conditions, and restrictions, and assume the duties of an architectural control committee, for a tract, the board of directors shall:~~

~~(A) Receive a written request from the board of directors of the tract's property owners' association or homeowners' association, with a petition signed by not less than a majority of the property owners of the parcels within the tracts covered by those associations, requesting the district to enforce the covenants, conditions, and restrictions for that tract and assume the duties of the architectural control committee for that tract, if an architectural control committee is called for in the covenants, conditions, and restrictions.~~

~~(B) Conduct a public hearing on the question, after giving mailed notice to each affected property owner of the date, time, and location of the meeting.~~

1 ~~(C) Submit an application to the local agency formation~~
2 ~~commission pursuant to Section 56824.10, specifying the exact~~
3 ~~nature and scope of the intended services to be provided by the~~
4 ~~district.~~

5 ~~(D) Receive the approval of the local agency formation~~
6 ~~commission, pursuant to Article 1.5 (commencing with Section~~
7 ~~56824.10) of Chapter 5 of Part 3 of Division 3 of Title 5, which~~
8 ~~may include completion terms deemed appropriate by the~~
9 ~~commission, to enforce covenants, conditions, and restrictions for~~
10 ~~a tract, and to assume the duties of the architectural control~~
11 ~~committee for that tract.~~

12 ~~(E) Adopt an ordinance assuming the power to enforce~~
13 ~~covenants, conditions, and restrictions for a tract, and to assume~~
14 ~~the duties of the architectural control committee for that tract,~~
15 ~~provided that the ordinance requires:~~

16 ~~(i) The property owners within the tract to finance the~~
17 ~~enforcement of the covenants, conditions, and restrictions, and the~~
18 ~~duties of the architectural control committee.~~

19 ~~(ii) The tract's property owners' association or homeowners'~~
20 ~~association to indemnify the district for the costs of any litigation,~~
21 ~~settlements, injuries, damages, or judgments arising from~~
22 ~~enforcement of the covenants, conditions, and restrictions, and the~~
23 ~~district's duties as the architectural control committee.~~

24 ~~(2) The Bel Marin Keys Community Services District may, by~~
25 ~~ordinance, divest itself of the power undertaken under this~~
26 ~~subdivision.~~

27 ~~(g) The Bear Valley Community Services District, the Bell~~
28 ~~Canyon Community Services District, the Cameron Estates~~
29 ~~Community Services District, the Lake Sherwood Community~~
30 ~~Services District, the Saddle Creek Community Services District,~~
31 ~~the Wallace Community Services District, and the Santa Rita Hills~~
32 ~~Community Services District may, for roads owned by the district~~
33 ~~and that are not formally dedicated to or kept open for use by the~~
34 ~~public for the purpose of vehicular travel, by ordinance, limit access~~
35 ~~to and the use of those roads to the landowners and residents of~~
36 ~~that district.~~

37 ~~(h) Notwithstanding any other provision of law, the transfer of~~
38 ~~the assets of the Stonehouse Mutual Water Company, including~~
39 ~~its lands, easements, rights, and obligations to act as sole agent of~~
40 ~~the stockholders in exercising the riparian rights of the~~

1 stockholders, and rights relating to the ownership, operation, and
2 maintenance of those facilities serving the customers of the
3 company, to the Hidden Valley Lake Community Services District
4 is not a transfer subject to taxes imposed by Part 11 (commencing
5 with Section 23001) of Division 2 of the Revenue and Taxation
6 Code.

7 (i) ~~The El Dorado Hills Community Services District and the~~
8 ~~Rancho Murieta Community Services District may each acquire,~~
9 ~~construct, improve, maintain, and operate television receiving,~~
10 ~~translating, or distribution facilities, provide television and~~
11 ~~television-related services to the district and its residents, or~~
12 ~~authorize the construction and operation of a cable television~~
13 ~~system to serve the district and its residents by franchise or license.~~
14 ~~In authorizing the construction and operation of a cable television~~
15 ~~system by franchise or license, the district shall have the same~~
16 ~~powers as a city or county under Section 53066.~~

17 (j) ~~The Mountain House Community Services District may~~
18 ~~provide facilities for television and telecommunications systems,~~
19 ~~including the installation of wires, cables, conduits, fiber optic~~
20 ~~lines, terminal panels, service space, and appurtenances required~~
21 ~~to provide television, telecommunication, and data transfer services~~
22 ~~to the district and its residents, and provide facilities for a cable~~
23 ~~television system, including the installation of wires, cables,~~
24 ~~conduits, and appurtenances to service the district and its residents~~
25 ~~by franchise or license, except that the district may not provide or~~
26 ~~install any facilities pursuant to this subdivision unless one or more~~
27 ~~cable franchises or licenses have been awarded under Section~~
28 ~~53066 and the franchised or licensed cable television and~~
29 ~~telecommunications services providers are permitted equal access~~
30 ~~to the utility trenches, conduits, service spaces, easements, utility~~
31 ~~poles, and rights-of-way in the district necessary to construct their~~
32 ~~facilities concurrently with the construction of the district's~~
33 ~~facilities. The district shall not have the authority to operate~~
34 ~~television, cable, or telecommunications systems, except as~~
35 ~~provided in Section 61100. The district shall have the same powers~~
36 ~~as a city or county under Section 53066 in granting a franchise or~~
37 ~~license for the operation of a cable television system.~~